United States Department of Labor
Employees' Compensation Appeals Board

T.W., Appellant	)	
and	)	**Docket No. 16-0280**
	)	**Issued: September 12, 2016**
U.S. POSTAL SERVICE, POST OFFICE, Riverhead, NY, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
COLLEEN DUFFY KIKO, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On December 1, 2015 appellant filed a timely appeal of an October 5, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of the case.

ISSUE

The issue is whether appellant has met her burden of proof to establish a traumatic injury causally related to an accepted work incident on August 13, 2015.

FACTUAL HISTORY

On August 13, 2015 appellant, then a 25-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that she sustained a left leg injury when her postal vehicle was hit

[1] 5 U.S.C. § 8101 *et seq.*

from behind by another motor vehicle on that date. She described waiting at a yield sign when another driver hit her truck from behind. Appellant stopped work on August 14, 2015.

The employing establishment provided appellant with an authorization for examination and/or treatment (Form CA-16) on August 13, 2015. The history of injury was reflected that appellant was involved in a motor vehicle accident on August 13, 2015 when her work vehicle was struck from behind. The findings were no acute fracture, but muscle spasms. The healthcare provider[2] indicated by checking a box marked "yes" that appellant's condition was caused or aggravated by employment activity.

In a letter dated August 26, 2015, OWCP requested that appellant provide additional factual and medical evidence in support of her claim. The employing establishment controverted her claim noting that she had initially declined medical treatment, but when she returned to the employing establishment she informed her supervisor that her leg hurt.

Dr. Imrana Ahmed, an osteopath, examined appellant on August 27, 2015 and described her history of injury. She reported that appellant had back and neck pain since the motor vehicle accident. Dr. Ahmed reviewed imaging studies which demonstrated mild straightening of the cervical lordosis consistent with muscle spasm. She referred appellant to an orthopedic surgeon and found that she was totally disabled.

On September 4, 2015 Dr. Eric Manoff, a Board-certified orthopedic surgeon, found that appellant was totally disabled. Appellant reported neck, mid-back, and low back pain since a motor vehicle accident. Dr. Manoff noted that appellant was driving a mail truck on August 13, 2015 when she was rear ended. Appellant reported pain in the thoracic and lumbar spine as well as intermittent numbness and tingling in all four extremities. Dr. Manoff diagnosed cervical, thoracic, and lumbosacral strain status post motor vehicle accident. He recommended physical therapy and found appellant totally disabled.

Dr. Hasan Chughtai, an osteopath, examined appellant on September 9, 2015. He described the motor vehicle accident on August 13, 2015 noting that she was working as a rural carrier and had stopped her vehicle at a yield sign when she was rear ended. Dr. Chughtai described appellant's reports of neck pain with numbness and tingling in both arms and hands, mid-back pain, and lower back pain with numbness and tingling in her feet. Appellant also reported left ankle pain, left wrist pain, and bilateral hip and pelvic pain. Dr. Chughtai diagnosed cervical spine strain/sprain with muscle spasm, thoracic spine strain/sprain rule out disc herniation, lumbar spine strain/sprain rule out disc herniations, bilateral shoulder sprain, left wrist sprain, bilateral hip sprain, and left ankle sprain. He also recommended physical therapy, electrodiagnostic studies, and treatment with other practitioners including a podiatrist and orthopedic surgeon. Dr. Chughtai opined that there was a causal relationship between appellant's work-related motor vehicle accident on August 13, 2015 and her diagnosed conditions. He further found that she was totally disabled.

Appellant underwent a series of spine x-rays on August 17, 2015. These x-rays were performed by Dr. Michael Slattery, a Board-certified radiologist. He found mild rightward

[2] The signature is illegible.

curvature of the thoracic spine, mild reversal of the normal cervical lordosis possibly secondary to muscle spasm, and mild leftward curvature to the thoracolumbar spine. Appellant also underwent left and right wrist x-rays, left ankle x-ray, as well as left and right shoulder x-rays, which Dr. Slattery read as unremarkable.

Appellant submitted duty status reports (Form CA-17) and notes completed by Dr. Thomas Dow, a chiropractor. On August 21, 2015 Dr. Dow indicated that he had performed, but not reviewed, x-rays and opined that her symptoms were the direct result of her motor vehicle accident. Dr. Richard G. Lendino, also a chiropractor, examined appellant on August 19 and 24, 2015. On September 2, 2015 he diagnosed multiple subluxations with spasm, hypomobility, and tenderness at C1, C2, T7, T8, right sacrum, and left pelvis.

By decision dated October 5, 2015, OWCP denied appellant's claim finding that she had not established a causal relationship between her diagnosed conditions and her motor vehicle accident while in the performance of duty. It found that she had not submitted rationalized medical opinion evidence supporting a causal relationship between her diagnosed conditions and her accepted employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence, including the fact that the individual is an "employee of the United States" within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.[3] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[4]

OWCP defines a traumatic injury as, "[A] condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain which is identifiable as to time and place of occurrence and member or function of the body affected."[5] To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place, and in the manner alleged.[6] Second, the employee must submit sufficient

[3] *Kathryn Haggerty*, 45 ECAB 383, 388 (1994); *Elaine Pendleton*, 41 ECAB 1143 (1989).

[4] *Victor J. Woodhams*, 41 ECAB 345 (1989).

[5] 20 C.F.R. § 10.5(ee).

[6] *John J. Carlone*, 41 ECAB 354 (1989).

evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.[7]

A medical report is of limited probative value on a given medical question if it is unsupported by medical rationale.[8] Medical rationale includes a physician's detailed opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment activity. The opinion of the physician must be based on a complete factual and medical background of the claim, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and specific employment activity or factors identified by the claimant.[9]

ANALYSIS

The Board finds that appellant has failed to submit the necessary medical opinion evidence to establish a causal relationship between her diagnosed conditions and her accepted August 13, 2015 employment incident.

The medical evidence supporting appellant's claim includes reports from Drs. Ahmed and Manoff. Both of these physicians provided a history of injury and Dr. Manoff provided a diagnosis of cervical, thoracic, and lumbosacral strain status post motor vehicle accident. Neither Dr. Ahmed nor Dr. Manoff, however, provided a detailed report offering a clear opinion that appellant's accepted employment incident resulted in the diagnosed conditions. Without medical opinion evidence supporting causal relationship between the work incident and the diagnosed conditions, these reports are insufficient to meet appellant's burden of proof.[10]

Appellant also provided a report from Dr. Chughtai who examined appellant on September 9, 2015. Dr. Chughtai described her motor vehicle accident on August 13, 2015. He diagnosed cervical spine strain/sprain with muscle spasm, thoracic spine strain/sprain rule out disc herniation, lumbar spine strain/sprain rule out disc herniations, bilateral shoulder sprain, left wrist sprain, bilateral hip sprain, and left ankle sprain. Dr. Chughtai opined that there was a causal relationship between appellant's work-related motor vehicle accident on August 13, 2015 and her diagnosed conditions. While this report supports a causal relationship between her accepted employment incident and her various diagnosed sprains, he did not explain how and why the motor vehicle collision would result in the numerous and varied conditions. Dr. Chughtai also failed to offer any explanation of why her conditions would worsen in the time following her accident as she initially claimed only a left leg injury. Due to the lack of medical rationale explaining the nature and extent of the relationship between appellant's August 13,

[7] *J.Z.*, 58 ECAB 529 (2007).

[8] *T.F.*, 58 ECAB 128 (2006).

[9] *A.D.*, 58 ECAB 149 (2006).

[10] *Id.*

2015 employment injury and her diagnosed conditions, Dr. Chughtai's report is insufficient to establish her claim for a traumatic injury.[11]

In support of her claim, appellant submitted a series of reports from Drs. Dow and Lendino, both of whom are chiropractors. Section 8101(2) of FECA[12] provides that the term "physician" includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation demonstrated by x-ray to exist. The reports from Drs. Dow and Lendino do not establish that either chiropractor examined x-rays. Dr. Dow indicates that he took x-rays, but he did not provide a copy of the x-ray reports or document his finding on these x-rays. Moreover, he did not diagnose a subluxation of the spine. Dr. Lendino diagnosed subluxations of the spine, but did not indicate that he ordered or examined x-rays of appellant's spine. Without a diagnosis of spinal subluxation from an x-ray, a chiropractor is not considered a physician under FECA and his opinion does not constitute competent medical evidence.[13] As neither Dr. Dow nor Dr. Lendino, provided a diagnosis of a spinal subluxation from an x-ray, these chiropractors are not considered physicians under FECA and their reports do not constitute competent medical evidence and cannot establish appellant's traumatic injury claim.

The Board notes that the employing establishment issued a Form CA-16 authorization for medical treatment on August 13, 2015. Where an employing establishment properly executes a CA-16 form, which authorizes medical treatment as a result an employee's claim for an employment-related injury, the CA-16 form creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim.[14] The period for which treatment is authorized by a CA-16 form is limited to 60 days from the date of issuance, unless terminated earlier by OWCP.[15] In this case, it is unclear whether OWCP paid for the cost of appellant's examinations. On return of the case record, OWCP should further address the issue.[16]

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a traumatic injury causally related to an accepted work incident on August 13, 2015.

[11] *Id.*

[12] 5 U.S.C. § 8101(2).

[13] *F.D.*, Docket No. 15-0868 (issued August 10, 2015).

[14] *A.B.*, Docket No. 15-1002 (issued August 14, 2015); *Tracey P. Spillane*, 54 ECAB 608 (2003).

[15] 20 C.F.R. § 10.300(c).

[16] *Tracey P. Spillane*, *supra* note 14.

ORDER

IT IS HEREBY ORDERED THAT the October 5, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 12, 2016
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board